

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2519 of 1982

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

-----  
B.K. PATEL

Versus

GUJARAT STATE SEEDS CORPORATION LTD. & ORS.

-----  
Appearance:

MR AM RAVAL for Petitioner

MR JR NANAVATI for Respondent

-----  
CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 13/08/96

#### ORAL JUDGMENT

Heard learned counsel for the parties. The petitioner, working as Upper Division Clerk (U.D.C.) in the respondent-Corporation, filed this Special Civil Application before this Court and prayed for relief as under:

To quash and set aside the impugned order at annexure B and issue a writ of mandamus or any other appropriate writ, direction or order,

directing the respondent-Corporation -

- (A) to treat the impugned order at annexure B as illegal, malafide, unconstitutional, null void and of no effect whatsoever.
- (B) to consider the case of the petitioner for appointment to the post of Assistant on the basis of upgradation of the existing posts of Upper Division Clerks.
- (C) to consider the case of the petitioner for promotion to the post of Assistant as if the impugned order at annexure B was not passed at all and confer upon the petitioner all the benefits of service accordingly.
- (D) to consider the case of the petitioner for promotion as well as for direct selection to the post of Assistant without taking into consideration the adverse remarks communicated to the petitioner by letter dated December 31, 1981.
- (E) Any other and further relief that may be deemed just and proper by Your Lordships may be granted.

2. Under the order annexure 'B', the respondents herein, Nos.2 to 4 were given posting on the post of Assistant. The petitioner claimed promotion on the post of Assistant in this Special Civil Application with effect from 31st December 1981. The post of Assistants in the Corporation were to be filled by way of promotion or direct recruitment in the ratio of 1:1 under the Recruitment Rules 1975. These Recruitment Rules were brought into force on 26th September 1975. On 27th September 1977, two posts of Assistants were created. Both these posts were filled in by way of promotion though as per Recruitment Rules, one post should have been filled in by direct recruitment. On 15th April 1980, four posts of Assistants were created. On 30th April 1980, one post fell vacant due to termination of service of one Shri P.C. Trivedi. So, on 30th April 1981, there were in all five posts of Assistants in the Corporation. On 1.12.1980, one post of Assistant was filled in by direct recruitment and one Shri H.I. Mehta was appointed. The Rules 1975 were amended with effect from 1.5.1981 and the ratio of recruitment on the post of Assistants by promotion and direct recruitment has been made as 2:1. On 31st April 1980, in all four posts of Assistants were lying vacant and as per the said Rules 1975, as they stood prior to 1.5.1981, two posts were to

be filled in by direct recruitment and two by promotion. On 16th September 1981, three posts of U.D.C. were upgraded to the post of Assistant. These three upgraded posts were required to be filled in the ratio of 2:1. Thus, the Corporation, as per the vacancies as they stood on the respective dates, i.e. prior to date of amendment of Rules and after the amendment, was required to fill four posts in the ratio of 1:1 and three posts in the ratio of 2:1. In all, the Corporation was required to fill up total four posts by promotion and three by direct recruitment and after going through the reply, I found that the appointments were strictly made as per the ratio laid down under the said Rules. The claim of the petitioner is not acceptable and rightly he was not given promotion. None of the legal or fundamental rights of the petitioner have been infringed which calls for interference of this Court. The learned counsel for the petitioner passed a Purshis and made a submission that though the claim of the petitioner may not be acceptable, but in view of the fact that the petitioner has resigned from the Corporation, he should have been given benefit of scale of higher post in the channel of promotion on completion of 9 years' service, 18 years' service and 27 years' service. That benefit has not been given to the petitioner. The petitioner has resigned from the services and the documents have been produced by the respondent on record. In the writ petition, the petitioner has not made any grievance of the nature which has been made by him by passing a Purshis and as such, this Court will not enlarge the scope of the petition. However, it is a matter of some benefits which the petitioner is claiming on the basis of some Government Resolution. It is also not in dispute that the petitioner has been promoted to the post of Assistant with effect from 24th August 1992. In the circumstances, it may suffice to say that in case the above Resolution of the Government is applicable to the Corporation and in case the petitioner has his grievance as made in the Purshis, then he may make a representation to the Corporation in respect of his grievances within a period of two months from today and it is expected of the Corporation that this representation of the petitioner will be decided by it within a period of three months from the date of representation. In case the petitioner is found entitled for the benefits as claimed, all the consequential benefits will be given to him within a period of two months thereafter. In case grievances of the petitioner are not accepted, a reasoned order may be passed and a copy of the same may be given to the petitioner. Rule is discharged. No order as to costs.

.....

(sunil)